

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

Case No. 15-cv-0891

2015 JUL 23 P 12:15

ALAN DAVID McCORMACK, et al.,

Applicants/Petitioners,

vs.

JON W. SANFILIPPO
CLERK

EDWARD F. WALL, Secretary,
Wisconsin Department of Corrections, et al.,
Respondents.

**AFFIDAVIT OF AUTHENTICITY
FOR ALL DOCUMENTARY EVIDENCE**

I, Alan David McCormack, Applicant/Petitioner, and Victim, acting as the Lead Petitioner for all other Applicants/Petitioners and pro se for the above-entitled action, being first duly sworn on oath, certifies, deposes, and my sworn statement as to all documentary exhibits herein, are authentic photocopies, in strong support of the Grounds raised for this Habeas Corpus Action, pursuant to 28 U.S.C. § 2241(d); and, I state as follows:

- A. I am Alan David McCormack, the Affiant for this Affidavit; and, I currently reside at: Fox Lake Correctional Institution W 10237 Lake Emily Rd., P.O. Box 200, Fox Lake WI 53933;
- B. My birth/legal name is: A David Mark McCormack; and, I am a natural-born citizen of the State of Minnesota, and a citizen of Minnesota; but, I was incorrectly listed as Alan David McCormack for the Burnett County Case, No. 87-CR-112, and the Department of Corrections Records; and, I am required under DOC Rules to use Alan David McCormack for all purposes involving me, while under the custody of this State; and, this error in incorrectly listing me as Alan David McCormack comes at no fault of my own;
- C. I am willing, and competent, to testify before the Honorable Court, for all the Exhibits presented herein;
- D. The information and facts presented in all the following Exhibits 1-129, pages 1-456, are all true and correct:

EXHIBIT NO.S**DOCUMENT INFORMATION**

- 1A. Pages 1-3: Department of Corrections, Executive Directive 31, by DOC Secretary Patrick J. Fiedler, dated August 1993 - Revised - October 1993; Subject: Extraordinary Circumstances for Parole Consideration, 3 pages;
- 1B. Page 4: Wisconsin Governor Tommy G. Thompson's letter to DOC Secretary Michael J. Sullican; Subject: Administration of Wisconsin Mandatory Release Law, dated 4/28/94, 1 page;
2. Pages 5-9: Wisconsin Administrative Code PAC 1, Parole Procedure; Register May 1995, No. 473, 5 pages;
3. Pages 10-13: Department of Corrections, Inmate Release by Month and Release Type, By Month Reports, from January 1992 thru December 2001, 4 pages;
4. Page 14: Department of Corrections, Releases From Adult Facilities From 7/01/2006 To 6/30/2007, By Release Type and Release Month and Year, 1 page;
5. Pages 15-17: Wisconsin Parole Commission, Website Page, dated 5/8/2009, 3 pages;
6. Pages 18-20: Wisconsin Administrative Code PAC 1, Parole Procedures; Register October 2000, No. 538, 3 pages;
7. Page 21: Wisconsin Administrative Code PAC 1.01(2014) Authority; Register November 2010, No. 659, 1 page;
8. Page 22: Wisconsin Administrative Code PAC 1.02(2014) Purpose; Register November 2010, No. 659, 1 page;
9. Page 23: Wisconsin Administrative Code PAC 1.03(2014) Definitions; Register November 2010, No. 659, 1 page;
10. Page 24: Wisconsin Adminstrative Code PAC 1.04(2014) Purpose of Release Consideration; Register November 2010, No. 659, 1 page;
11. Page 25: Wisconsin Administrative Code PAC 1.05(2014) Eligibility for Release Consideration; Register November 2010, No. 659, 1 page;
12. Pages 26-27: Wisconsin Administrative Code PAC 1.06(2014) Release Consideration; Register November 2010, No. 659, 2 pages;
13. Page 28: Wisconsin Administrative Code PAC 1.07(2014) Commission Recommendations; Register November 2010, No. 659, 1 page;
14. Pages 29-30: Wisconsin Administrative Code PAC 1.08(2014) Release Due to Extraordinary Health Condition or Age; Register November 2010, No. 659, 2 pages;
15. Page 31: Wisconsin Administrative Code PAC 1.09(2014) Presumptive Mandatory Release Review; Register November 2010, No. 659, 1 page;
16. Pages 32-34: Parole Eligible Inmates on December 31, 2013, Summary Information for inmates with active sentences for offense(s) committed on or before December 31, 1999, 3 pages;
17. Pages 35-36: Wisconsin State Journal Newspaper Article, Reporter Dee J. Hall, Walker Tough On Paroles, 2 pages;
18. Pages 37-38: Dane County District Attorney's Office, First Assistant District Attorney John R. Burr's letter to the United State Department of Justice, Lystra G. Blake; regarding State v. Karls, Case NO. 91-CF-1784, for person serving a life sentence, and time served for this, 2 pages;

EXHIBIT NO.s**DOCUMENT INFORMATION**

19. Pages 39–45: Department of Corrections, Worksheet: Released, DOC Data, Average Length of Served, dated 6/15/2000; and, Worksheet, Minimum only/DOC Data, Average Length of Time to Minimum Classification, dated 6/15/2000, 7 pages;
20. Pages 46–52: Release of Lifer Cases After 1975, 7 pages;
21. Pages 53–62: Department of Health and Social Services, Wisconsin Parole Board, Overview of Release Experiences of Lifers in Wisconsin Institutions 1967–81, dated January 1982, 10 pages;
22. Page 63: Capital Times Newspaper Article, by Director of Prison Ministry Project, Jerry Hancock Parole-eligible inmates deserve change at release, dated April 1, 2014, 1 page;
23. Page 64: Journal Sentinel Newspaper Article, by Reporter Annysa Johnson, Faith-based groups seek meeting on parole rules, 1 page;
24. Pages 65–76: Wisconsin Administrative Code DOC 302 Assessment and Evaluation, Security Classification and Sentence Computation; Register November 2010, No. 659, 12 pages;
25. Pages 77–78: Wisconsin Administrative Code HSS 302.14 Criteria for Security Classification; HSS 302.15 Program Assignment; HSS 302.16 Criteria for program assignment; Register August 1979, No. 284, 2 pages;
26. Pages 79–80: Department of Health and Social Services, Division of Corrections, Bureau of Adult Institutions – Classification, Internal Management Procedures; Subject: Interpretive Use of Risk Rating Index, effective date 12/07/88; 2 pages;
27. Pages 81–82: Wisconsin Administrative Code DOC 302.145 Requirements for Assigning a Security Classification to an Inmate Serving a Life Sentence, current through 12/31/04; Register June 1994, No. 462, 2 pages;
28. Pages 83–95: Offender Complaint, Complaint Number FLCI-2014-11966, dated 6/13/14, 13 pages;
29. Pages 96–101: Order of the Department of Corrections, Repealing and Recreating Rules, 6 pages;
30. Pages 102–105: Department of Corrections, Secretary Rick Raemisch's letter to Colleagues, dated June 29, 2009, regarding Sentencing Reform, Community Investments, Juvenile Corrections, WWCS Enhancements, GPS Expansion Funded, Other Relevant Vetoed, Other Provisions, and Next Steps, 4 pages;
31. Pages 106–107: Budget Briefs from the Legislative Reference Bureau; Early Release and Sentencing Reforms, dated 9/01/2009, 2 pages;
32. Pages 108–109: Wisconsin Court System – The Third Branch, Webside Page, New Budget Changes Sentencing Practices, last modified July 22, 2009, dated 10/27/2009, 2 pages;
33. Page 110: Judgment of Conviction, Alan David McCormack–Defendant, Burnett County Case No. 87-CR-112, dated July 14, 1988, 1 page;
34. Page 111: Prairie Correctional Facility, Inmate Classification Custody Rating, Facility/Sending Jurisdiction WI, Alan McCormack #190338/5449, Total Score 2 = Minimum, dated 1/4/2001, 1 page;
35. Page 112: Prairie Correctional Facility, Inmate Classification Custody Rating, Facility/Sending Jurisdiction WI, Alan McCormack #190338/5449, Total Score 2 = Minimum, dated 7/3/2001, 1 page;

EXHIBIT NO.s**DOCUMENT INFORMATION**

36. Page 113: Notice of Parole Consideration, to Hon. Harry F. Gunderson, and District Attorney Kenneth L. Kutz, dated December 11, 2000, 1 page;
37. Page 114: Admission of Service, received in Burnett County, received by Kenneth L. Kutz, date received 12/14/00, 1 page;
38. Page 115: Notice of Parole Consideration, date mailed 10/24/2005, Signature District Attorney Kenneth L. Kutz, dated 11/3/05, 1 page;
39. Page 116: Parole Commission Action, for Alan McCormack #190338, date action taken = 1/23/01, 1 page;
40. Page 117: Parole Commission Action, for Alan McCormack #190338, date action taken = 12/21/05, 1 page;
41. Page 118: Parole Commission Action, for Alan McCormack #190338, date action taken = 12/12/07, 1 page;
42. Pages 119-120: Parole Commission Action, for Alan McCormack #190338, date action taken = 6/23/09, 2 pages;
43. Pages 121-122: Parole Commission Action, for Alan McCormack #190338, date action taken = 5/12/10, 2 pages;
44. Page 123: Pre-Release Investigation, for Alan McCormack #190338, Parole Agent David Hatch approved this release plan, dated 5/17/11, 1 page;
45. Pages 124-125: Parole Commission Action, for Alan McCormack #190338, date action taken, 11/12/10, 2 pages:
46. Pages 126-127: Parole Commission Action, for Alan McCormack #190338, date action taken, 5/23/11, 2 pages;
47. Page 128: Department of Corrections, Assessment of Offender Risk, for Alan McCormack #190338, date completed 5/26/11, 1 page;
48. Page 129: Department of Health & Social Services, Assessment and Evaluation, Initial Inmate Custody Rating, date Rating completed 8/11/88, 1 page;
49. Pages 130-131: Parole Commission Action, for Alan McCormack #190338, date action taken = 3/20/12, 2 pages;
50. Page 132: Fox Lake Correctional Institution, Parole Commission Hearing Schedule January 2013, 1 page;
51. Page 133: Parole Commission Action, for Alan McCormack #190338, date action taken = 1/18/13, 1 page;
52. Pages 134A-134C: Alan McCormack's letter to William Francis Parole Commissioner, dated February 15, 2013, 3 pages;
53. Page 135: Parole Commission, Chairperson Kathleen Nagle's response letter to Alan McCormack #190338, dated 2/25/13, 1 page;
54. Pages 136-138: United States District Court, Western District of Wisconsin, Case No. 12-cv-535-bbc, Defendants' Answer to Plaintiff's Complaint, by Assistant Attorney General Anthony D. Russomanno, 3 pages from this 21 page legal document; 3 pages;
55. Pages 139-140: Parole Commission Action, for Alan McCormack #190338, date action taken = 11/21/13, 2 pages;
56. Pages 141-142: Parole Commission Action, for Alan McCormack #190338, date action taken = 11/14/14, 2 pages;

EXHIBIT NO.s**DOCUMENT INFORMATION**

57. Page 143: Fox Lake Correctional Institution's Warden Jodine Deppisch's response letter, dated 10/15/2007, 1 page;
58. Page 144: Wisconsin Senator, Lena C. Taylor's response letter, dated 10/10/07, 1 page;
59. Pages 145-147: Wisconsin State Representative, 18th Assembly District, Tamara Grigsby's 4/23/2007 letter to Parole Chairperson Alfonso Graham, 3 pages;
60. Pages 148-150: Wisconsin Administrative Codes, Factors in Custody Classification: DOC 302.04 Custody Classification; DOC 302.07 Factors in Assigning a Custody Classification, print date 1/20/12, 3 pages;
61. Pages 151-158: Instructions and Guidelines for Evaluating Risks as an Aid in Classifying inmates of the Wisconsin Correctional System, 8 pages;
62. Page 159: Fox Lake Correctional Institution's Warden Jodine Deppisch's Memorandum, regarding Infection Control Program, dated July 17, 2006, 1 page;
63. Pages 160-161: Interview/Information Request, Alan McCormack, to Inmate Complaint Examiner Cooper, dated 12/06/13, 2 pages;
64. Pages 162-172: Offender Complaint, Complaint Number FLCI-2014-4332, dated 2/27/14, 11 pages;
65. Pages 173-174: Alan McCormack's letter to Health Service Director Holly Meier, regarding Special Needs Committee, requesting room re-assignment, Dated December 2, 2014, 2 pages;
- 66A. Page 175: FLCI Special Needs Committee Memorandum to Alan McCormack #190338, dated 12/4/14, 1 page;
- 66B. Page 176: FLCI Special Needs Committee Memorandum to Alan McCormack #190338, dated 12/18/14, 1 page;
67. Pages 177-194: Offender Complaint, Complaint Number FLCI-2014-24936, dated 12/20/14, 18 pages;
68. Page 195: Interview/Information Request of Terrence Davis #160396, to Maintenance Sgt. Jenkins, dated 1/15/14, and response date 1/16/14, 1 page;
69. Page 196: Interview/Information Request of Terrence Davis #160396, to Maintenance Sgt. Jenkins, dated 1/28/14, and response date 1/29/14, 1 page;
70. Page 197: Interview/Information Request of Terrence Davis #160396, to FLCI Warden Randall Hepp, dated 2/27/14, with response undated, 1 page;
71. Pages 198-207: Offender Complaint, Complaint Number FLCI-2014-6661, dated 4/01/14, 10 pages;
72. Pages 208-209: Fluticasone Propionate Nasal Spray, Information Document, 2 pages;
73. Pages 210-218: Offender Complaint, Complaint Number FLCI-2012-11847, dated 6/06/12, 9 pages;
74. Pages 219-233: Offender Complaint, Complaint Number FLCI-2012-18698, dated 9/03/12, 15 pages;
75. Pages 234-244: Offender Complaint, Complaint Number FLCI-2014-3592, dated 2/18/14, 11 pages;
76. Pages 245-256: Offender Complaint, Complaint Number FLCI-2013-7120, dated 4/03/13, 12 pages;

EXHIBIT NO.s**DOCUMENT INFORMATION**

77. Pages 257-287: Offender Complaint, Complaint Number FLCI-2013-7121, dated 4/03/13, 31 pages;
78. Pages 288-290: LaCross Tribune Newspaper Article, Reporter Bill Lueders, Wisconsin Rethinks Use of Solitary Confinement, dated July 22, 2014, 3 pages
79. Pages 291-295a-d: Rolling Stone Magazine Article, Reporter Jeff Tietz, Slow-Motion Torture, dated December 6, 2012, 8 pages;
80. Page 296: Physician's Orders, Humberto Lagar #185468, dated 8/14/06, 1 page;
81. Page 297: Infection Control: Patient and Employee Precautions, Humberto Lagar #185468, dated 11/02/07, 1 page;
82. Pages 298-299: Parade Magazine Article, Reporter Dr. Ranit Mishori, A Deadly Bug Invades Our Towns, dated December 7, 2008, 2 pages;
83. Pages 300-311: Offender Complaint, Complaint Number FLCI-2013-4221, dated 2/24/13, 12 pages;
84. Pages 312-322: Offender Complaint, Complaint Number FLCI-2013-5105, dated 3/08/13, 11 pages;
85. Pages 323-334: Offender Complaint, Complaint Number FLCI-2013-18825, dated 9/20/13, 13 pages;
86. Pages 335-344: Offender Complaint, Complaint Number FLCI-2014-11637, dated 6/13/14, 10 pages;
87. Pages 345-354: Offender Complaint, Complaint Number FLCI-2014-13706, dated 7/07/14, 10 pages;
88. Page 355: Judgment of Conviction, Alan David Mark McCormack - Defendant, Burnett County Case No. 87-CR-112, dated July 14, 1988;
89. Pages 356-357: UW Health, Otolaryngology, for Alan McCormack #190338, by Attending Physician Kathleen L. Wilkinson, PAC, dated 10/08/08, 2 pages;
90. Page 358: Hernia Surgery, Discharge Instruction Sheet A, dated 6/16/14, 1 page;
91. Pages 359-376: Offender Complaint, Complaint Number FLCI-2009-7561, dated 3/29/09, 18 pages;
92. Pages 377-384: Offender Complaint, Complaint Number FLCI-2011-610, dated 1/09/11, 8 pages;
93. Pages 385-393: Offender Complaint, Complaint Number FLCI-2013-15635, dated 8/11/13, 9 pages;
94. Pages 394-405: Offender Complaint, Complaint Number FLCI-2013-19037, dated 9/27/13, 12 pages;
95. Pages 406-416: Offender Complaint, Complaint Number FLCI-2014-6664, dated 4/01/14, 11 pages;
96. Pages 417-419: Johnson v. Meier, et al., Eastern District Federal Court, Case No. 10-CV-337, dated February 6, 2012, 3 pages;
97. Page 420: Department of Corrections, Prescriber's Orders, for Alan McCormack #190338, dated from 9/15/14 - 10/20/14, 1 page;
98. Page 421: FLCI, Dr. CE Larson's Medical Report, dated 12/15/13, 1 page;
99. Pages 422-423: Supreme Court of Wisconsin, McCormack v. Raemisch, Case No. 2007AP2683-W, Order, dated March 21, 2008, 2 pages;

EXHIBIT NO.s**DOCUMENT INFORMATION**

100. Page 424: Program Review Inmate Classification Summary, for Alan McCormack #190338, Page 2 of this Report, dated 2/14/08, 1 page;
101. Page 425: Notice of Offender Placed in Temporary Lockup, for Alan McCormack #190338, dated 10/10/11, 1 page;
102. Page 426: Inmate Classification Report, Re-Classification, for Alan McCormack #190338, Page 4 of this Report, dated 7/15/10, 1 page;
103. Page 427: Memorandum/Correspondence, by Laure Larson - Social Worker, to Alan McCormack #190338, regarding PRC/Risk Rating, dated 12/03/13, 1 page;
104. Pages 428-429: Adult Conduct Report #2425942, Alan McCormack #190338, dated 12/14/14, 2 pages;
105. Pages 430-431: Disciplinary Hearing, Reasons For Decision and Evidence On #2425942, Alan McCormack #190338, dated 12/17/14, 2 pages;
106. Page 432: Alan McCormack #190338's letter to: John Husz, for Federal Case: McCormack v. Hamblin et al., Case No. 12-cv-535-bbc, dated 9/20/13, 1 page;
107. Page 433: Alan McCormack #190338's letter to: Parole Chairperson Kathleen Nagle, for Federal Case: McCormack v. Hamblin et al., Case No. 12-cv-535-bbc, dated 9/20/13, 1 page;
108. Page 434: Alan McCormack #190338's letter to: Parole Commissioner Heidi Schroeder, for Federal Case: McCormack v. Hamblin et al., Case No. 12-cv-535-bbc, dated 9/20/13, 1 page;
109. Page 435: Alan McCormack #190338's letter to: Parole Commissioner William Francis, for Federal Case: McCormack v. Hamblin et al., Case No. 12-cv-535-bbc, dated 9/20/13, 1 page;
110. Page 436: Assistant to Parole Chairperson, Holly Heggestad's response letter, dated 10/22/13, 1 page;
111. Page 437: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1766122, Alan McCormack #190338, dated 10/11/05, 1 page;
112. Page 438: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1442917, Carlos Robles #314440, dated 9/08/06, 1 page;
113. Page 439: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1900053, Shannon LaBine #256914, dated 12/20/06, 1 page;
114. Page 440: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1947270, Dominic Cross #383679, dated 6/27/07, 1 page;
115. Page 441: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1988020, Humberto Lagar #185468, dated 9/04/07, 1 page;
116. Page 442: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1992289, Toran Brooks #335944, dated 12/21/07, 1 page;
117. Page 443: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1947744, Dennis Barnes #83456, dated 3/26/08, 1 page;
118. Page 444: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #2016719, Jeremy Smith #497254, dated 10/26/08, 1 page;
119. Page 445: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1988313, Dennis Peterson #134635, dated 10/04/12, 1 page;

EXHIBIT NO.S**DOCUMENT INFORMATION**

120. Page 446: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #2320578, Steven Key #584751, dated 3/16/13, 1 page;
121. Page 447: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #2391099, Mark Shogren #401911, dated 7/11/13, 1 page;
122. Pages 448-449: Adult Conduct #1723638, Jeremy Herbert #273354, dated 7/19/06, 2 pages;
123. Page 450: Disciplinary Hearing, Reasons For Decision and Evidence Relied On #1723638, Jeremy Herbert #273354, dated 7/25/06, 1 page;
124. Page 451: State of Wisconsin, Department of Justice, Assistant Attorney General David C. Rice's letter to Alan McCormack #190338, dated 4/04/08, 1 page;
125. Page 452: Alan McCormack #190338's letter to: Department of Justice - Criminal Investigation Division, and Dodge County Sheriff's Department, regarding: Reporting Crimes, as the victim of these criminal acts, dated 7/19/13, 1 page;
126. Page 453: State of Wisconsin, Department of Justice - Division of Criminal Investigation Director Tina R. Virgil's response letter to Alan McCormack #190338, dated 8/29/13, 1 page;
127. Page 454: State of Wisconsin, Department of Justice - Division of Criminal Investigation Director Tina R. Virgil's 2nd response letter to Alan McCormack #190338, dated 12/09/13, 1 page;
128. Page 455: Office of the District Attorney, Dodge County, Managing Attorney Robert G. Barrington's letter to Inmate Kenneth Harris #62836, dated 10/16/09, 1 page;
129. Page 456: Office of the District Attorney, Dodge County, District Attorney Kurt F. Klomberg's letter to Inmate Antonio Muniz #513641, dated 6/26/12, 1 page;

DECLARATION OF TRUTH AND AUTHENTICITY OF ALL EXHIBITS

I, A David Mark McCormack, required to be listed named as Alan David McCormack, for all purposes per DOC Rules, while I am under the custody of this State, and at no fault of my own; and, I, the Lead Applicant/Petitioner, and Victim, for all other Applicants/Petitioners--Victims, under penalty of perjury, pursuant to United States Law, under 28 U.S.C. § 1746; and, 18 U.S.C. § 1621; I hereby swear and affirm on oath and good-faith, for this 28 U.S.C. § 2241(d) Habeas Corpus Case, by my signature herein, I state the following as being 100% True, Correct, and Accurate, as facts in support of the Grounds being raised for this Habeas

Corpus Case: I firmly set forth all the information, facts, within these attached hereto Exhibits 1-129, pages 1-456, are authentic, accurate, correct, and true documentary evidence for these Grounds 1-7, all in strong support for the much needed Habeas Corpus Relief from the Honorable Court. I further hereby affirm this Habeas Corpus action is not being presented for any improper, frivolous, or vexatious purposes, whatsoever, and all the facts, and all the developed facts through Discovery, will definitely confirm this urgent need for Habeas Corpus Relief, for all the victims subjected to these violations of Rights and Laws under color of Law.

Dated this 30th day of March, 2015.

On 3/30/15, per my request, I was called to the Records Office, to have my signature on this document - Notarized; but, upon arriving, this was refused for being notarized by the Records Custodian - Julie Dahm, all at no fault of my own. Thus, I hereby still sign this in Good-Faith.

Respectfully Affirmed By,


A David Mark McCormack, Affiant
Fox Lake Correctional Institution
W 10237 Lake Emily Rd.
P.O. Box 200
Fox Lake WI 53933

Subscribed and Sworn to before me
on this _____ day of March, 2015

Notary Public

My Commission Expires: _____